



Town of Southern Shores

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Ordinance 2017-07-04

ZTA-17-01

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWN OF SOUTHERN SHORES, NORTH CAROLINA

ARTICLE I. Purpose(s) and Authority.

WHEREAS, pursuant to N.C.G.S. § 160A-381, the Town of Southern Shores (the “Town”) may enact and amend ordinances regulating the zoning and development of land within its jurisdiction and specifically the location and use of buildings, structures and land. Pursuant to this authority and the additional authority granted by N.C.G.S. Chap. 160A, Art. 19 et. seq, the Town has adopted a comprehensive zoning ordinance (the “Town’s Zoning Ordinance”) and has codified the same as Chapter 36 of the Town’s Code of Ordinances (the “Town Code”); and

WHEREAS, the Town has adopted a flood damage prevention ordinance (the “Flood Ordinance” and has codified the same as Chapter 16 of the Town’s Code of Ordinances; and

WHEREAS, the Town’s Zoning Ordinance and Flood Ordinance currently disallow any living space to be constructed within accessory structures; and

WHEREAS, the Town has discovered that an undeterminable number of accessory structures within the Town have previously received permits and certificates of compliance or occupancy for accessory structures that include living space either before the adoption of or contrary to the restrictions in the Zoning Ordinance and Flood Ordinance; and

WHEREAS, the Town desires to allow for such living space to continue as legally nonconforming, and continue prohibition of the construction of future living space within accessory structures while regulation of such construction is further studied; and

WHEREAS, the Town further finds that in accordance with the findings above it is in the interest of and not contrary to the public's health, safety, morals and general welfare for the Town to amend the Town’s Zoning Ordinance, Flood Ordinance and Town Code as stated below.

ARTICLE II. Construction.

For purposes of this ordinance amendment, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words

(~~strike through~~) shall be considered deletions to existing language. Any portions of the adopted Town Code which are not repeated herein, but are instead replaced by an ellipses (“...”) shall remain as they currently exist within the Town Code.

ARTICLE III. Amendment of Zoning Ordinance and Flood Damage Prevention Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Southern Shores, North Carolina, that the Town Code shall be amended as follows:

PART I. That **Town Code Sec. 36-132, (c)** be amended as follows:

...
(5) Residential accessory structures existing as of January 1, 2017 which were otherwise lawful and duly permitted at the time of their construction or modification and which are nonconforming due solely to the inclusion of living space within the accessory structure shall be considered legally nonconforming under this article. Such accessory structures may be modified in conformance with this chapter and the nonconforming living space within them may continue so long as the nonconformity is not expanded.

PART II. That **Town Code Sec. 16-5, (8)** be amended as follows:

...
h. Residential accessory structures existing as of January 1, 2017 which were otherwise lawful and duly permitted at the time of their construction or modification and which are nonconforming due solely to the inclusion of working, sleeping, living, cooking or restroom space within the accessory structure shall be considered legally nonconforming under this chapter so long as all such working, sleeping, living, cooking or restroom space is located above regulatory flood protection elevation. Such accessory structures may be modified in conformance with this chapter and the nonconforming working, sleeping, living, cooking or restroom space within them may continue so long as the nonconformity is not expanded.

ARTICLE IV. Statement of Consistency with Comprehensive Plan and Reasonableness.

The Town’s adoption of this ordinance amendment is consistent with the Town’s adopted comprehensive zoning ordinance, land use plan and any other officially adopted plan that is applicable. For all of the above-stated reasons and any additional reasons supporting the Town’s adoption of this ordinance amendment, the Town considers the adoption of this ordinance amendment to be reasonable and in the public interest.

ARTICLE V. Severability.

All Town ordinances or parts of ordinances in conflict with this ordinance amendment are hereby repealed. Should a court of competent jurisdiction declare this ordinance amendment or any part thereof to be invalid, such decision shall not affect the remaining provisions of this ordinance amendment nor the Zoning Ordinance, Flood Ordinance or Town Code of the Town of Southern Shores, North Carolina which shall remain in full force and effect.

ARTICLE VI. Effective Date.

This ordinance amendment shall be in full force and effect from and after the ____day of _____, 2017.

_____, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney

Date adopted:

Motion to adopt by Councilmember:

Motion seconded by Councilmember:

Vote: __AYES__NAYS